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*Attorneys for Defendant WELLS FARGO BANK, N.A., dba  
AMERICA'S SERVICING COMPANY (erroneously sued as Wells  
Fargo dba America's Servicing Company)*

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DENISE FULEIHAN, an Individual,  
  
Plaintiffs,

vs.

WELLS FARGO dba AMERICA'S  
SERVICING COMPANY, a foreign  
corporation, FREEMONT INVESTMENT  
AND LOAN, a foreign corporation, and  
DOES 1-5, inclusive, ROES I-V, inclusive,  
  
Defendants.

CASE NO.

**PETITION FOR REMOVAL OF  
ACTION UNDER 28 U.S.C. § 1331  
(FEDERAL QUESTION) AND § 1441  
(DIVERSITY)**

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §1331, 1441 and 1446, Defendant,  
WELLS FARGO BANK, N.A., dba America's Servicing Company (*erroneously sued as Wells  
Fargo dba America's Servicing Company*), hereby removes to this Court the state court action  
described below.

**I. Summary of Pleadings**

On or about August 26, 2009, an action was commenced in the Eighth Judicial District  
Court for Clark County, Nevada captioned as above, Case Number A597974, Dept. XXIII. A

1 true copy of the Complaint is attached as Exhibit A. Plaintiffs similarly filed a Notice of  
 2 Pendency of action on August 26, 2009. A true and correct copy of which is attached hereto as  
 3 Exhibit B. No other pleadings have been filed in the Action.

## 4 II. Statement of Jurisdiction

5 This Court has original jurisdiction of the Action pursuant to 28 U.S.C. § 1331 in that it  
 6 involves matters arising under federal acts, including the Real Estate Settlement Procedures Act  
 7 (12 U.S.C. §2605) (Compl. ¶¶ 12-17.) and Truth in Lending Act (15 U.S.C. §§ 1601, et seq.)  
 8 (“TILA”) (Compl. ¶¶ 18-24.).

9 In addition, Defendant is entitled to remove this action to this Court pursuant to the  
 10 provisions of 28 U.S.C. § 1441 on the grounds that this Court has original jurisdiction under 28  
 11 U.S.C. § 1332 because it is a civil action between citizens of different states and the amount in  
 12 controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

### 13 A. Complete Diversity Exists

14 Plaintiff alleges that they are residents of Nevada. (Compl. ¶ 1).

15 Defendant Wells Fargo is a national bank. For diversity jurisdiction purposes, a national  
 16 bank is a citizen of the state designated as its main office on its organization certificate.  
 17 Wachovia Bank, N.A. v. Schmidt, 546 U.S. 303, 306 (2006). Accordingly, Wells Fargo is a  
 18 citizen of South Dakota – the state listed on Wells Fargo’s organization certificate.

19 Freemont Investment and Loan is and was at the time this action was commenced a  
 20 corporation incorporated in the State of California with its principal place of business in that  
 21 State. Upon the information and belief, no other defendant is a citizen of Nevada. Because  
 22 Plaintiff is a citizen of Nevada and no Defendant is a citizen of Nevada, complete diversity of the  
 23 parties exists.

### 24 B. The Amount in Controversy Requirement is Satisfied

25 The Action satisfies the amount in controversy requirement under 28 U.S.C. § 1332.  
 26 Plaintiff asserts rights to real property and seeks to enjoin a pending foreclosure. (Compl. ¶¶ 30-  
 27 31). The real property at issue in this Action was purchased for \$532,220 in March 2001 as  
 28 indicated by title information made available on the Clark County Assessor’s website, a true and

1 correct screen shot dated September 24, 2009 is attached as Exhibit C. Accordingly, the value of  
 2 the contract exceeds \$75,000, satisfying the amount in controversy requirement.

### 3 III. Conclusion

4 Because Wells Fargo has timely filed a notice of removal of an action for which this Court  
 5 has original jurisdiction both because it involves a federal question, and based on diversity of the  
 6 parties and satisfaction of the amount in controversy requirement, the Action must be removed to  
 7 this Court.

8 Wells Fargo will also timely file a Notice of Removed Action in the Eighth Judicial  
 9 District Court, Clark County, Nevada, a true and correct copy of which is attached as Exhibit D.

10  
 11 Dated: September 24, 2009

SNELL & WILMER L.L.P.

12  
 13 By: /s/ Cynthia A. LeVasseur  
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 19 Attorneys for Defendant WELLS FARGO BANK,  
 20 N.A., dba America's Servicing Company  
 21 (erroneously sued as Wells Fargo dba America's  
 22 Servicing Company)  
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**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **PETITION FOR REMOVAL OF ACTION** by the method indicated:

      X       U. S. Mail  
           U.S. Certified Mail  
           Facsimile Transmission  
           Overnight Mail  
           Federal Express  
           Hand Delivery

and addressed to the following:

James R. Stout, Esq.  
Stout Law Firm  
4560 S. Decatur, Suite 201  
Las Vegas, Nevada 89103  
Attorney for *Plaintiff*

DATED this 24th day of September, 2009.

/s/ Rita Shute  
An employee of Snell & Wilmer L.L.P.